

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**ROBERT SIZEMORE,**

**Plaintiff,**

**v.**

**THOMAS J. KAHLER and  
BOROUGH OF WEST MIFFLIN,**

**Defendants.**

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**Civ. No. 2:14-cv-1175**

**Judge Maurice B. Cohill, Jr.**

**ORDER EXTENDING TIME TO FILE NOTICE OF APPEAL**

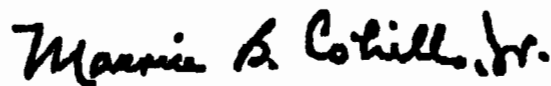
On May 5, 2016, we granted Defendants' motion to dismiss as to all claims asserted in Robert Sizemore's Amended Complaint for failure to state a claim upon which relief can be granted. ECF Nos. 41 & 42. We further dismissed the Amended Complaint, and noted that Federal Rule of Appellate 3(a)(1), allows for appeal to the Court of Appeals "only by filing a notice of appeal with the district clerk within the time allowed by Rule 4." Fed.R.App.P. 3(a)(1). Federal Rule of Appellate 4(a)(1) states that "the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the judgment or order appealed from." Fed.R.App.P. 4(a)(1).

A copy of the Opinion and Order was mailed to Mr. Sizemore, who is proceeding pro se, on May 5, 2016, at the address indicated on the docket. On May 10, 2016, the envelope containing the Opinion and Order was returned to the Court with a United States Postal Service sticker that states, "Return to Sender." A copy of the returned envelope is attached as Appendix A to this Order.

We have no knowledge as to why the envelope was returned to the Court. The United States Postal Service's "Look Up a ZIP Code" website shows that the address on the envelope is a valid address. A copy of a print out from the USPS website verifying the validity of the address is attached as Appendix B. We will mail another copy of the Opinion and Order to Mr. Sizemore. However, the fact remains that Mr. Sizemore has not received a copy of the Opinion and Order dismissing his case. We find that the fact that Mr. Sizemore did not timely receive the Opinion and Order constitutes good cause to extend the time for Mr. Sizemore to file an appeal, if he so chooses. Fed.R.App.P. 4(a)(5)(A).

Normally, a notice of appeal must be filed within 30 days of the entry of the Court's Order granting Defendants' motion to dismiss and dismissing the Amended Complaint. Fed.R.App.P. 4(a)(1). Allowing three days for our first mailing to be delivered to Mr. Sizemore would mean that any notice of appeal would have been due by June 9, 2016. However, because Mr. Sizemore did not timely receive notice of the Opinion and Order dismissing his case through no fault of his own, we will extend the time he has to file a notice of appeal to June 23, 2016.

AND NOW, to-wit, this 10th day of May, 2016, having found that good cause exists for the reasons stated above the Court hereby *sua sponte* extends the time for filing a notice of appeal in this case to **June 23, 2016**.



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Maurice B. Cohill, Jr.  
Senior United States District Court Judge

cc: ROBERT SIZEMORE, PRO SE  
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PITTSBURGH PA 15221-4824